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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,729	08/13/2003	Xiaokai NIU	4025	1728

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CLAUSEN MILLER, P.C
SUITE 1600
10S. LASALLE STREET
CHICAGO, IL 60603

EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,729

Applicant(s)

NIU ET AL.

Examiner

Kofi A. Schusterbrandt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 111003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I,	Figure 3,	(embossed middle layer);
Species II,	Figure 7,	(low density middle layer between liner); and
Species III,	Figure 8,	(laminated sheet onto substrate).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Harold Fassnacht on August 12, 2004 a provisional election was made with traverse to prosecute the invention of Species I Figure 3, claims 1-11 and 16-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the I-shaped and round cross-sections of claims 17 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites paper embossed "on one side only". It is unclear how the paper is embossed on one side only. When a depression is made on one side a corresponding bump is made on the other. In other words, the specification teaches both sides being necessarily affected by embossing and the drawings (Figure 3) show embossing effect on both sides.

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Furthermore, claims 17 and 19 recite round and I-shaped cross-sectional structures that are not shown in the drawings. It is unclear how those shapes work as cushions. No art has been applied to claims 17 and 19.

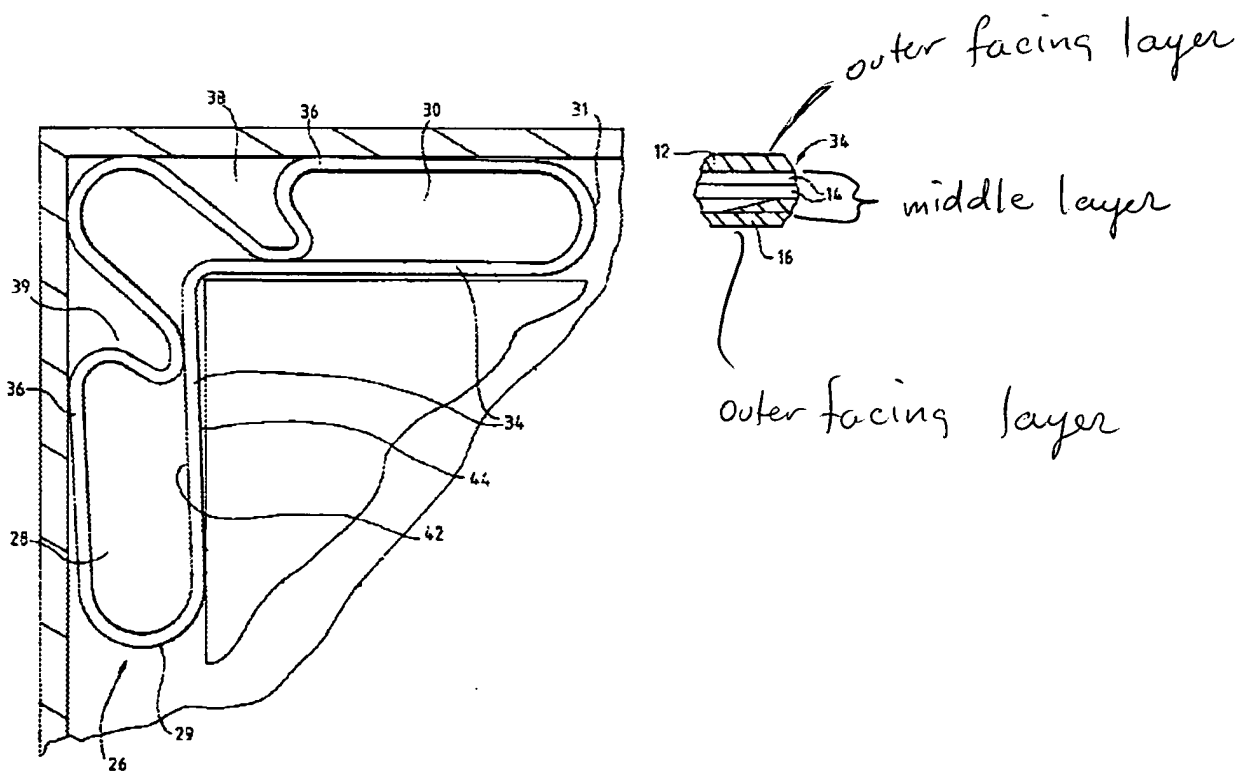
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Qiu (6,186,329). Qiu teaches each feature of the claimed invention as shown below.



Claim Rejections - 35 USC § 103

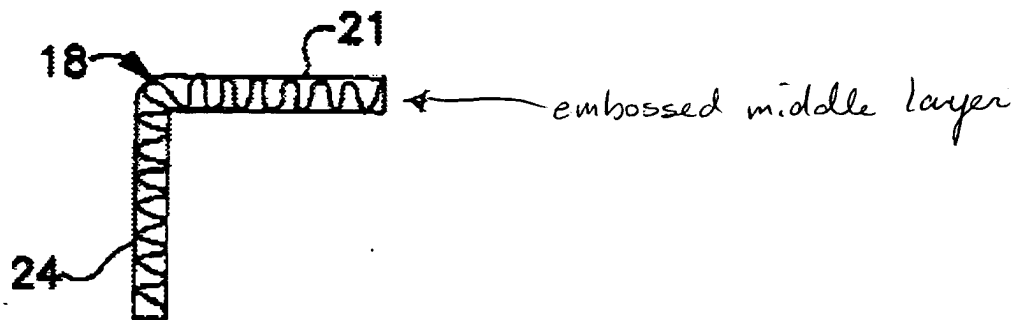
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 10, 11 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qiu (6,186,329), in view of Braun (5,799,797). Qiu teaches, substantially, each feature of the claimed invention as discussed above. Qiu does not teach an embossed middle layer or an I-beam or circular cross-sectional structure. Braun teaches an embossed middle layer (See Braun's Figure 3 below). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Qiu's base sheet to have Braun's cross-sectional structure in order to construct a lighter stronger support. Regarding claim 3, Braun clearly teaches a dimpled middle layer. Regarding claim 4, Braun's middle layer clearly teaches embossing on one side of each of the outer layers. Regarding claims 17 and 19, it would have been obvious to one of ordinary skill in the art at the time of invention to have formed Qiu's structural member into any of a number of well known cross sectional designs in order to support external cushioning loads most efficiently.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Qiu (6,186,329), in view of Braun (5,799,797) and Liebel (5,131,541). Qiu and Braun teach, substantially, each feature of the claimed invention as discussed above. Neither Qiu or Braun teach a post with varying wall thickness. Liebel, however, teaches varying wall

thickness. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Qiu to have thicker walls in places expected to experience higher stresses than places experiencing lower stresses.



Allowable Subject Matter

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Indicating Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 9, the prior art does not teach, in combination with the other features of claim 8, a post wall comprising straight portions and curved portions, and the curved portions are thicker than the straight portions.

Prior Pertinent Art


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '587 to Melms Jr.; '383 to Qiu et al.; '313 to Svendsen; '111 to Petriekis; '101 to McDonald; and '389 to Brown each teach corner posts in the same art area as the disclosed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kofi Schulterbrandt
August 17, 2004


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER